

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PROVIDENCE ZUMBO, as Administratrix of the
Estate of JOHN ZUMBO a/k/a JOHN D. ZUMBO,

: 07-CV-6340 (LMM)

: Plaintiff,

: -against-

T. AND B. EQUIPMENT COMPANY, INC.,
ALLEN GEORGE ROTHENBERGER,

: **NOTICE OF MOTION**

: Defendants.

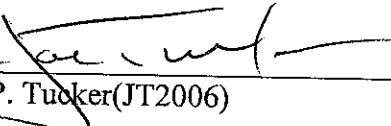
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PLEASE TAKE NOTICE, that upon the annexed declaration of Joseph P. Tucker, Esq., dated August 15, 2008 together with the exhibits annexed thereto and the accompanying Memorandum of Law, and upon all prior proceedings had herein, the undersigned will move this Court, before the Honorable Lawrence M. McKenna, U.S.D.J. at the United States District Court, located 500 Pearl Street, New York, New York for an *in limine* ruling that under New York choice-of-law rules, Connecticut has substantial interests in applying its wrongful death statute in this matter, and thus, the law of Connecticut, as the domicile of the decedent as well as the state in which Letters of Administration for the decedent's estate have been issued to Plaintiff, governs the issue of damages herein, thus permitting Plaintiff to introduce evidence of (i) the destruction of the decedent's earning capacity; (ii) the value of decedent's lost enjoyment of life; and (iii) the decedent's conscious pain and suffering. and granting such other and further

relief as to this Court may seem just and proper.

Dated: New York, New York
August 15, 2008

Respectfully submitted,

By: 
Joseph P. Tucker (JT2006)

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